

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON**

ZIRCONIA PUBLISHING, INC., a  
Colorado corporation,

Plaintiff,

v.

JOHN DOE 1 A/K/A “JOANNAH  
CLARKSON”, AND JOHN DOES 2-10,  
individuals or unknown entities.

Defendants.

NO.: 2:15-cv-00598-TSZ

**PLAINTIFF’S *EX PARTE* MOTION  
FOR CLARIFICATION OF MINUTE  
ORDER**

**NOTE ON MOTION CALENDAR:  
MAY 7, 2015**

**I. INTRODUCTION**

Plaintiff Zirconia Publishing, Inc. (“Zirconia”) moves the Court for clarification of the Court’s Minute Order of May 5, 2015 (Dkt. No. 6).

Zirconia requests that the Court specifically allow Zirconia to subpoena Defendants’ email and IP addresses from Amazon.com, Inc. (“Amazon”) and Google, Inc. (“Google”), as well as any internet service providers (“ISPs”).

## II. BACKGROUND

Zirconia's complaint seeks damages and injunctive relief relating to Defendants' wrongful, fraudulent transmission of a Digital Millennium Copyright Act ("DMCA") takedown notice (the "Notice"), pursuant to 17 U.S.C. § 512, to Amazon in connection with publication of the novel *A Baby for My Billionaire Stepbrother* (the "Book"), by Cassandra Zara. Defendants' Notice falsely claimed that Defendant "Joannah Clarkson" – which on information and belief Zirconia alleges to be a pseudonym – owned the U.S. copyright in the Book. The Notice caused Amazon to cease publication of the Book, resulting in considerable damages to Zirconia.

Zirconia sought, and the Court granted, leave to take immediate discovery on third parties Amazon and Google to determine the true identities of the Defendants, including "Clarkson". The also Court granted leave to take discovery on "Clarkson's" internet service provider ("ISP"), using the information Zirconia obtained from Amazon and Google. However, the Court's Minute Order granted Zirconia's Motion for Leave to Take Expedited Discovery to Learn Defendant's Identities (Dkt. No. 3) only in part, providing as follows:

"Plaintiff may serve subpoenas on Amazon.com, Inc. and Google, Inc., and any internet service providers identified as a result of information provided by Amazon or Google. The subpoenas shall **be limited in scope to ascertaining the name(s) and address(es)** of the person or persons alleged to have sent the Digital Millennium Copyright Act notice on or about March 10, 2015, relating to the book, *A Baby for My Billionaire Stepbrother*, as alleged in plaintiff's Complaint."

Dkt. No. 6 at 1:13-16 (emphasis added). Zirconia seeks clarification of the Minute Order to ensure that Zirconia may seek information in addition to the names and addresses—principally email and IP addresses associated with any accounts or relevant activity.

## III. MOTION

Zirconia moves the Court for an order clarifying the Minute Order. Zirconia's proposed order requested the following information:

"The subpoenas shall be directed toward information reasonably expected to reveal the

John Doe defendants' identities, including their names, addresses, telephone numbers, email addresses, IP addresses, web hosts, credit card information, bank account information, Kindle Direct Publishing information, information relating to Digital Millennium Copyright Act notices sent in connection with books published by Zirconia, and any other identifying information."

(Dkt. No. 3-1 at 1:23-2:1.)

Zirconia understands that the Court granted permission to seek Defendants' names and addresses, as well as the identity of any internet service providers (i.e., "web hosts"). Zirconia also believes the Court's Minute Order does not grant permission to request telephone numbers, credit card information, bank account information, or Kindle Direct Publishing information. Zirconia respects this decision and will not request that information at this time.

However, Zirconia requests that the Court indicate specifically that the Minute Order does allow it to subpoena email addresses and IP addresses from Amazon and Google. It is possible that neither Amazon nor Google will be able to identify Defendants' ISPs. If they cannot, Zirconia will be able to research the identity of the ISPs if it has Defendants' email or IP addresses, which Amazon and Google will likely be able to provide.

#### IV. CONCLUSION

Zirconia respectfully requests that this Court grant clarification of its Minute Order as requested, so that Zirconia will be able to identify the Defendants and proceed with this lawsuit in a timely manner.

Respectfully submitted, and dated this 7th day of May, 2015.

**Focal PLLC**

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